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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

LEA MÁRQUEZ PETERSON - Chairwoman
 SANDRA D. KENNEDY
 JUSTIN OLSON
 ANNA TOVAR
 JIM O'CONNOR

FEB 12 2021

DOCKETED BY

In the matter of)

ROBERT FRANCIS ALEXANDER, a single)
man,)

Respondent.)

DOCKET NO. S-21129A-20-0332

DECISION NO. 77907

**ORDER TO CEASE AND DESIST, ORDER
 FOR RESTITUTION, ORDER FOR
 ADMINISTRATIVE PENALTIES AND
 ORDER FOR OTHER AFFIRMATIVE
 ACTION**

On November 4, 2020, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Temporary Order to Cease and Desist and Notice of Opportunity for Hearing (the "Notice") against Respondent Robert Alexander

On December 8, 2020, the Division served a copy of the Notice upon Robert Alexander by delivering the Notice via USPS Certified Mail. No request for a hearing or answer to the Notice has been filed as of January 14, 2021.

I.**FINDINGS OF FACT**

1. Robert Francis Alexander ("Alexander") was at all relevant times a resident of Arizona. Alexander may be referred to as "Respondent."

2. From at least June 2018 to November 4, 2020, Alexander offered and sold securities in the form of investment contracts, purportedly to fund his golf ball resale business.

3. Alexander is an avid golfer and belongs to several Phoenix-area golf clubs. While on the golf course and at club events, Alexander pitched his golf ball resale business. Alexander

1 explained to potential investors that he would purchase golf balls at a discount from a friend and
2 resell the balls for a profit on websites such as golfballs.com. Occasionally, Alexander resold other
3 golf-related items, such as range finders. Alexander also frequented local bars and restaurants and
4 pitched his golf ball resale business to other patrons.

5 4. After explaining his business to an individual, Alexander solicited them to invest in
6 his golf ball resale business deals. Alexander induced investors to invest by telling them they will
7 make between 20% - 30% return on their investment in a short time frame, usually around 4 – 6
8 weeks.

9 5. Alexander solicited investments in his business from both previous investors and new
10 investors.

11 *Investors in Alexander's Business*

12 6. During the relevant time period, Alexander sold investment contracts to ten investors,
13 totaling \$382,100. Alexander told investors their investment would be used to purchase golf balls to
14 resell online.

15 7. While soliciting investments, Alexander represented to at least some investors that he
16 does these deals all the time and they were a sure thing. Alexander told at least some investors they
17 could not lose their money. Alexander presented himself to investors as a successful businessman
18 through his memberships in various golf clubs, driving a 2020 Lexus, and living in an affluent
19 neighborhood in Scottsdale, AZ.

20 8. Alexander gave some investors bank account information to wire their investments.
21 Other investors gave Alexander their investments via check or cash.

22 9. At least one investor received a promissory note in exchange for his investment; the
23 majority of investors did not receive any documentation in exchange for their investments.

24 10. Alexander continued to solicit additional investments from at least some investors
25 after their initial investment, some prior to the expected maturity date of the original investment. At
26 least some investors made additional investments with Alexander.

1 11. When payment became due based on Alexander's represented length of the
2 investment, Alexander did not provide investors with their payments as promised. When investors
3 confronted Alexander about their investments, Alexander gave investors multiple excuses as to why
4 he did not have their money:

5 a) One investor and her family members made several investments in January
6 and February 2019. On April 1, 2019, when Alexander did not repay the investor as promised, she
7 sent him a text message that read, in part, "I have to speak my mind because it's causing some serious
8 issues between my husband and I ? [sic] If I don't see money [sic] I might have to take a legal advise!
9 [sic] We would like to keep good relationships with you." In response, Alexander stated in part, "I
10 will stay on top of this trust me. I am on your side. I wouldn't want to hurt you with this. You are
11 like family to me. If I have to I will pull from my IRA Acct. I will send a check to you," and "Your
12 funds have my personal guarantee." On April 2, 2019, Alexander texted the investor and told her "If
13 it doesn't hit account today, I sent you a check just in case." When the check did not arrive as
14 expected, the investor continued to text Alexander for updates. Alexander sent the investor multiple
15 assurances that he had mailed her a check. On April 8, 2019, Alexander told the investor he would
16 wire the money directly to her. Alexander and the investor continued to communicate, and Alexander
17 continued to provide excuses as to why the investor's principal had not been returned. As of July 3,
18 2019, the investor still had not received the check or the wire payment.

19 b) Alexander solicited one investor for a \$15,000 investment. When she told him
20 that was too much, Alexander countered with \$7500. When she told Alexander that was also too
21 much, he told her he did not want her to miss out on this opportunity and offered a \$5000 investment
22 with a \$1000 return within 30 days. In January 2020, the investor gave Alexander a check for \$5000.
23 In mid- to late April 2020, Alexander returned the initial \$5000 to the investor with a promise to give
24 her \$1000 for the delay, in addition to the \$1000 return she was initially promised. Approximately
25 two weeks later, Alexander gave the investor's husband only \$1000. The investor passed away to
26 cancer shortly after, in May 2020.

1 c) Between June 29, 2018 and August 15, 2018, one investor gave Alexander
2 \$168,390, a substantial portion of the investor's personal savings, in exchange for a promise of a
3 25% return within 3-4 weeks. Alexander told the investor he personally was in for over \$100,000.
4 Alexander did not make any payments to the investor until a year after the original investment. The
5 investor estimates Alexander still owes him at least \$60,000.

6 12. At least some investors did eventually receive some payments from Alexander;
7 however, the majority of investors did not receive their full principal amount or any return on their
8 investment. Alexander paid some investors via check, and others with cash.

9 13. Alexander gave at least two investors checks as payment. When the investors
10 attempted to deposit the checks, the bank informed the investors the account on the check did not
11 exist. At least one investor was charged a "no sufficient funds" fee as a result.

12 14. Alexander sent another investor a photograph of a check he purported to be the
13 investor's payment. The investor never received the check.

14 15. Alexander used at least some of the investor's funds for personal and other expenses.

15 *Alexander's Prior Legal Proceedings*

16 16. Alexander has been a named defendant in at least 12 civil lawsuits in Maricopa
17 County Superior Court between March 2000 and the present, including Maricopa County Superior
18 Court Cause Nos. CV2020-004955, filed April 22, 2020; CV2020-004954, filed April 22, 2020; and
19 CV2019-001768, filed February 25, 2019. On April 25, 2019, the court entered a judgment in the
20 amount of \$251,455.70 against Alexander in CV2019-001768.

21 17. The Plaintiffs in CV2020-004954 and CV2020-004955 alleged Alexander solicited
22 them to invest in his golf ball resale business. The Plaintiffs invested in Alexander's business in
23 November and December 2019, respectively. Alexander failed to pay the Plaintiffs as promised.
24 Additionally, the Plaintiffs alleged Alexander had no intention of using their investments for the
25 purchase and resale of golf balls, but rather for personal and other expenses. Alexander failed to
26

1 answer the complaints, and on June 25, 2020, the court entered a judgment of default in the amount
2 of \$24,437.44 in CV2020-004954 and \$19,231 in CV2020-004955.

3 18. Alexander failed to disclose to investors the civil lawsuits pending during the relevant
4 time period.

5 19. On May 24, 2005, Alexander was indicted in the United States District Court for the
6 District of Arizona Cause No. 2:05-CR-00472-DGC-1 on 66 counts including conspiracy, wire fraud,
7 mail fraud, and money laundering. The indictment alleged that Alexander and his company, R&S
8 Marketing, told investors they were in the business of buying excess goods and pharmaceutical drugs
9 from manufacturers and reselling it overseas. Instead of using investment funds as purported,
10 Alexander conducted a Ponzi scheme involving 50 investors. On November 13, 2006, Alexander
11 pled guilty to one count of Wire Fraud. He was sentenced to a 96-month prison term and ordered to
12 pay \$9,923,225.55 in restitution.

13 20. Alexander failed to disclose to investors his prior felony conviction or restitution
14 order.

15 21. On April 5, 2004, Alexander filed for Chapter 7 bankruptcy in the United States
16 Bankruptcy Court for the District of Arizona Cause No. 2:04-bk-05702. The case was discharged on
17 April 3, 2006.

18 22. Alexander failed to disclose to investors his prior bankruptcy.

19 II.

20 CONCLUSIONS OF LAW

21 1. The Commission has jurisdiction over this matter pursuant to Article XV of the
22 Arizona Constitution and the Securities Act.

23 2. Respondent offered or sold securities within or from Arizona, within the meaning of
24 A.R.S. §§ 44-1801(16), 44-1801(22), and 44-1801(27).

25 3. Respondent violated A.R.S. § 44-1841 by offering or selling securities that were
26 neither registered nor exempt from registration.

1 4. Respondent violated A.R.S. § 44-1842 by offering or selling securities while neither
2 registered as a dealer or salesman nor exempt from registration.

3 5. Respondent violated A.R.S. § 44-1991 by (a) employing a device, scheme, or artifice
4 to defraud, (b) making untrue statements or misleading omissions of material facts, and/or (c)
5 engaging in transactions, practices, or courses of business that operate or would operate as a fraud or
6 deceit.

7 6. Respondent's conduct is grounds for a cease and desist order pursuant to A.R.S. § 44-
8 2032.

9 7. Respondent's conduct is grounds for an order of restitution pursuant to A.R.S. § 44-
10 2032.

11 8. Respondent's conduct is grounds for administrative penalties under A.R.S. § 44-2036.

12 **III.**

13 **ORDER**

14 THEREFORE, on the basis of the Findings of Fact, and Conclusions of Law, the Commission
15 finds that the following relief is appropriate, in the public interest, and necessary for the protection
16 of investors:

17 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that Respondent, and any of Respondent's
18 agents, employees, successors and assigns, permanently cease and desist from violating the Securities
19 Act.

20 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that Respondent Robert
21 Alexander shall pay restitution to the Commission in the principal amount of \$382,100 as a result of
22 the conduct set forth in the Findings of Fact and Conclusions of Law. Payment is due in full on the
23 date of this Order. Payment shall be made to the "State of Arizona" to be placed in an interest-
24 bearing account controlled by the Commission. Any principal amount outstanding shall accrue
25 interest at the rate of 10 percent per annum from the date of purchase until the date of this Order,
26 subject to any legal offsets, pursuant to A.A.C. R14-4-308(C).

1 IT IS FURTHER ORDERED that the restitution ordered in the preceding paragraph will
2 accrue interest, as of the date of the Order, at the rate of the lesser of (i) ten percent per annum or (ii)
3 at a rate per annum that is equal to one per cent plus the prime rate as published by the board of
4 governors of the federal reserve system in statistical release H. 15 or any publication that may
5 supersede it on the date that the judgment is entered.

6 The Commission shall disburse the funds on a pro-rata basis to investors shown on the records
7 of the Commission. Any restitution funds that the Commission cannot disburse because an investor
8 refuses to accept such payment, or any restitution funds that cannot be disbursed to an investor
9 because the investor is deceased shall be disbursed on a pro-rata basis to the remaining investors
10 shown on the records of the Commission. Any funds that the Commission determines it is unable to
11 or cannot feasibly disburse shall be transferred to the general fund of the state of Arizona.

12 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that Respondent Alexander shall
13 pay an administrative penalty in the amount of \$50,000 as a result of the conduct set forth in the
14 Findings of Fact and Conclusions of Law. Payment is due in full on the date of this Order. Payment
15 shall be made to the "State of Arizona." Any amount outstanding shall accrue interest as allowed by
16 law.

17 IT IS FURTHER ORDERED that the administrative penalty ordered in the preceding
18 paragraph will accrue interest at the rate of the lesser of (i) ten percent per annum or (ii) at a rate per
19 annum that is equal to one per cent plus the prime rate as published by the board of governors of the
20 federal reserve system in statistical release H. 15 or any publication that may supersede it on the date
21 that the judgment is entered.

22 IT IS FURTHER ORDERED that payments received by the state of Arizona shall first be
23 applied to the restitution obligation. Upon payment in full of the restitution obligation, payments
24 shall be applied to the penalty obligation.

IT IS FURTHER ORDERED, that if Respondent fails to comply with this order, the Commission may bring further legal proceedings against Respondent, including application to the superior court for an order of contempt.

IT IS FURTHER ORDERED that this Order shall become effective immediately.

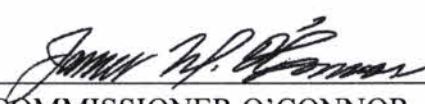
BY ORDER OF THE ARIZONA CORPORATION COMMISSION


CHAIRWOMAN MÁRQUEZ PETERSON


COMMISSIONER KENNEDY


COMMISSIONER OLSON


COMMISSIONER TOVAR


COMMISSIONER O'CONNOR



IN WITNESS WHEREOF, I, MATTHEW J. NEUBERT, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 12 day of February, 2021.


MATTHEW J. NEUBERT
EXECUTIVE DIRECTOR

DISSENT

DISSENT

This document is available in alternative formats by contacting Carolyn D. Buck, ADA Coordinator, voice phone number (602) 542-3931, e-mail cdbuck@azcc.gov.

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SERVICE LIST FOR: In the Matter of Robert Francis Alexander

Robert Francis Alexander
11244 E. Greythorn Dr.
Scottsdale, AZ 85262-7449